

HOUSE BILL No. 5914

June 21, 1990, Introduced by Reps. Niederstadt and Griffin and referred to the Committee on Taxation.

A bill to amend sections 1, 2, 2d, 3, 4, and 21 of Act No. 188 of the Public Acts of 1899, entitled

"An act to provide for the taxation of inheritances, transfers of property by will, transfer of property by the intestate laws of this state or transfers of property by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death,"

section 1 as amended by Act No. 351 of the Public Acts of 1982 and section 3 as amended by Act No. 474 of the Public Acts of 1980, being sections 205.201, 205.202, 205.202d, 205.203, 205.204, and 205.221 of the Michigan Compiled Laws; and to add section 2b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 2, 2d, 3, 4, and 21 of Act No. 188
2 of the Public Acts of 1899, section 1 as amended by Act No. 351
3 of the Public Acts of 1982 and section 3 as amended by Act

1 No. 474 of the Public Acts of 1980, being sections 205.201,
2 205.202, 205.202d, 205.203, 205.204, and 205.221 of the Michigan
3 Compiled Laws, are amended and section 2b is added to read as
4 follows:

5 Sec. 1. (1) A tax ~~shall be and is hereby~~ IS imposed upon
6 the transfer of any property, real or personal, of the value of
7 \$100.00 or over, or of any interest therein or income therefrom,
8 in trust or otherwise, to persons or corporations, not exempt by
9 law in this state from taxation on real or personal property or
10 not heretofore or hereafter existing within this state as incor-
11 porated foundations or not heretofore existing within this state
12 as established nonprofit unincorporated foundations operated
13 exclusively for benevolent, charitable, or educational purposes,
14 in the following cases:

15 (a) When the transfer is by will or by the intestate laws of
16 this state from any person dying seized or possessed of the prop-
17 erty while a resident of this state.

18 (b) When the transfer is by will or intestate law of prop-
19 erty within the state, and the decedent was a nonresident of the
20 state at the time of his or her death.

21 (c) When the transfer is of property made by a resident or
22 by nonresident, when the nonresident's property is within this
23 state, by deed, grant, bargain, sale, or gift made in contempla-
24 tion of the death of the grantor, vendor, or donor or intended to
25 take effect, in possession or enjoyment at or after such death.
26 Any transfer of a material part of this property in the nature of
27 a final disposition or distribution made by the decedent within 2

1 years prior to his or her death, except in case of a bona fide
2 sale for a fair consideration in money or money's worth, shall,
3 unless shown to the contrary, be deemed to have been made in con-
4 templation of death within the meaning of this section. The tax
5 shall also be imposed when any such grantee, vendee, or donee
6 becomes beneficially entitled in possession or expectancy to any
7 property or the income of the property by any such transfer,
8 whether made before or after the passage of this act.

9 (d) Whenever any person or persons, corporation or associa-
10 tion, whether voluntary or organized pursuant to law, shall exer-
11 cise a power of appointment derived from any disposition of prop-
12 erty made either before or after the passage of this act, the
13 appointment when made shall be deemed a transfer taxable under
14 this act in the same manner as though the property to which the
15 appointment relates belonged absolutely to the donee of the power
16 and had been bequeathed or devised to the donee by will; and
17 whenever any person or persons, corporation or association,
18 whether voluntary or organized pursuant to law, possessing such a
19 power of appointment so derived shall omit or fail to exercise
20 the power of appointment within the time provided, in whole or in
21 part, a transfer taxable under this act shall be deemed to take
22 place to the extent of the omission or failure, in the same
23 manner as though the person or persons, corporation or associa-
24 tion thereby becoming entitled to the possession or enjoyment of
25 the property to which the power related had succeeded thereto by
26 a will of the donee of the power failing to exercise the power,
27 taking effect at the time of the omission or failure. THIS

1 SUBDIVISION IS CONSTRUED SO THAT THE EXERCISE OF A POWER OF
2 APPOINTMENT OR THE OMISSION OR FAILURE TO EXERCISE A POWER OF
3 APPOINTMENT DOES NOT CONSTITUTE A TAXABLE TRANSFER UNDER THIS ACT
4 IF THE TRANSFER, BY THE DONOR OF THE POWER, OF THE PROPERTY TO
5 WHICH THE APPOINTMENT RELATES IS NOT DESCRIBED WITHIN
6 SUBDIVISION (A), (B), OR (C).

7 (2) Notwithstanding subsection (1), a tax shall not be
8 imposed in respect of personal property, except tangible personal
9 property having an actual situs in this state, if 1 of the fol-
10 lowing apply:

11 (a) The transferor at the time of the transfer was a resi-
12 dent of a state or territory of the United States, or of any for-
13 eign country, which at the time of the transfer did not impose a
14 transfer tax or death tax of any character in respect of personal
15 property of residents of this state, except tangible personal
16 property having an actual situs in that state or territory or
17 foreign country.

18 (b) If the laws of the state, territory, or country of resi-
19 dence of the transferor at the time of the transfer contained a
20 reciprocal exemption provision under which nonresidents were
21 exempted from transfer taxes or death taxes of every character in
22 respect of personal property, except tangible personal property
23 having an actual situs therein, provided the state, territory, or
24 country of residence of such nonresidents allowed a similar
25 exemption to residents of the state, territory, or country of
26 residence of the transferor. For the purposes of this section
27 the District of Columbia and possessions of the United States

1 shall be considered territories of the United States. As used in
2 this subsection, "foreign country" and "country" mean both any
3 foreign country and any political subdivision of that country,
4 and either of them of which the transferor was domiciled at the
5 time of his or her death. For the purposes of this section,
6 "tangible personal property" shall be construed to exclude all
7 property commonly classed as intangible personal property, such
8 as deposits in banks, mortgages, debts, receivables, shares of
9 stock, bonds, notes, credits, evidences of an interest in proper-
10 ty, evidences of debt, and like incorporeal personal property.

11 (3) Notwithstanding subsection (1), a tax shall not be
12 imposed in respect of property passing to a trustee or trustees
13 of any trust agreement or trust deed heretofore or hereafter exe-
14 cuted by a resident or nonresident decedent by virtue of or under
15 the terms and provisions of any contract or contracts of insur-
16 ance heretofore or hereafter in force, insuring the life of such
17 decedent, and paid or payable at or after the death of the dece-
18 dent to the trustee or trustees for the benefit of a beneficiary
19 or beneficiaries having any present or future, vested, contin-
20 gent, or defeasible interest under such trust deed or trust
21 agreement.

22 (4) If an unincorporated foundation provided tax exempt
23 status by subsection (1) ceases to operate if its funds are
24 diverted from the lawful purposes of its organization, or if it
25 becomes unable to lawfully serve its purposes, the legislature
26 may by law provide for the winding up of its affairs and for the
27 conservation and disposition of its property, in such way as may

1 best promote and perpetuate the purposes for which the
2 unincorporated foundation was originally organized.

3 (5) Every transfer to any corporation, society, institution,
4 or person or persons, or association of persons for benevolent,
5 charitable, religious, or educational purposes, organized, exist-
6 ing, or operating under the laws of or within a state or terri-
7 tory of the United States, other than this state, or of the
8 District of Columbia, also shall be exempt from taxation under
9 this act, if at the date of the transfer which, excepting as to
10 gifts by living persons, shall be deemed to be the date of
11 decedent's death, the laws of the state or territory or of the
12 District of Columbia, under which such corporation, society,
13 institution, person or persons, or association of persons was
14 organized, existing, or operating did not impose a death tax of
15 any character in respect to property transferred to such a corpo-
16 ration, society, institution, person or persons, or association
17 of persons organized, existing, or operating under the laws of or
18 within this state, or if at the date of the transfer the laws of
19 the state or territory or of the District of Columbia contained a
20 reciprocal provision under which such a transfer to such a corpo-
21 ration, society, institution, person or persons, or association
22 of persons organized, existing, or operating under the laws of or
23 within another state or territory or of the District of Columbia
24 were exempted from death taxes of every character, if the other
25 state or territory or of the District of Columbia allowed a simi-
26 lar exemption to such a corporation, society, institution, person
27 or persons, or association of persons organized, existing, or

1 operating under the laws of another state or territory or of the
2 District of Columbia.

3 The exemption provided in this subsection shall be effective
4 with respect to transfers from decedents whose death occurred on
5 or after May 1, 1950. Any tax previously paid on transfers made
6 exempt by this subsection shall be refunded.

7 (6) Notwithstanding subsection (1), but subject to subsec-
8 tion (7), if the decedent dies after December 31, 1982 and if the
9 decedent makes or has made a transfer otherwise subject to tax
10 under this act to the surviving spouse of the decedent or to the
11 surviving spouse of the decedent and another person or persons,
12 and if this transfer qualifies for the marital deduction for pur-
13 poses of the federal estate tax in the estate of the decedent or
14 if this transfer would have qualified for the federal estate tax
15 marital deduction if the transfer had been included in the gross
16 estate of the decedent for purposes of the federal estate tax,
17 the transfer, using values as finally determined for purposes of
18 this act, shall be exempt from taxation under this act.

19 (7) The exemption provided by subsection (6) shall be
20 subject to the following:

21 (a) On the death of the first spouse to die, if the executor
22 properly elects to treat a transfer or specific portion of a
23 transfer as qualified terminable interest property, then on the
24 death of the surviving spouse, the transfer of qualified ter-
25 minable interest property, using values on the death of the sur-
26 viving spouse, shall be considered a transfer of the surviving
27 spouse subject to subsection (1). For purposes of determining

1 tax rates and exemptions applicable to such transfer, the
2 relationship of each successor on the death of the surviving
3 spouse shall be to the spouse to which the successor bears the
4 closer relationship, and other transfers from the surviving
5 spouse to such successors shall be taken into account first. If
6 the executor is not required by federal law to file a federal
7 estate tax return, the provisions in this subsection will apply
8 if the executor makes an irrevocable election to have them apply
9 on or before the date on which tax under this act, if any, is
10 due, and files such election on or before that date with the rev-
11 enue division of the department of treasury.

12 (b) If a transfer to the surviving spouse, or to the surviv-
13 ing spouse and other persons, is of an interest in a group of
14 assets not all of which are subject to tax under this act, for
15 purposes of the application of subsection (6), on the death of
16 the first spouse to die, the surviving spouse or the surviving
17 spouse and others persons, shall be considered to have received a
18 pro rata portion of the group of assets in the same proportion
19 that the value of that portion of the group of assets not subject
20 to tax under this act bears to the value of the entire group of
21 assets.

22 (8) For purposes of subsections (6) and (7):

23 (a) "Executor" means that term as defined by section 2203 of
24 the internal revenue code.

25 (b) "Qualified terminable interest property" means a trans-
26 fer or a specific portion of a transfer which the executor elects
27 to treat as qualified terminable interest property, as that term

1 is defined by section 2056(b)(7) of the internal revenue code,
 2 for purposes of the federal estate tax or for purposes of subsec-
 3 tion (7), to the extent subsections (6) and (7) apply to the
 4 transfer or specific portion of the transfer.

5 (c) The inheritance tax imposed on the estate of the surviv-
 6 ing spouse with respect to qualified terminable interest property
 7 shall be paid from qualified terminable interest property unless
 8 the surviving spouse's will specifically provides otherwise.

9 Sec. 2. (1) Where the persons entitled to a beneficial
 10 interest in the property are the grandfather, grandmother,
 11 father, mother, husband, wife, child, LEGALLY ADOPTED CHILD,
 12 STEPCHILD, brother, sister, wife or widow of a son, or the hus-
 13 band OR WIDOWER of a daughter ~~, or to or for the use of a child~~
 14 ~~or children adopted in conformity with the laws of this state or~~
 15 ~~another state or country,~~ of the decedent grantor, donor, or
 16 vendor, or for the use of a person to whom the decedent grantor,
 17 donor, or vendor stood in the mutually acknowledged relation of a
 18 parent, if the relationship began at or before the child's seven-
 19 teenth birthday and continued until the death of the decedent
 20 grantor, donor, or vendor, or to or for the use of a lineal
 21 descendant of the decedent grantor, donor, or vendor, the trans-
 22 fer of property of the clear market value of ~~-\$10,000.00-~~
 23 \$25,000.00 is exempt from all taxation under this act.

24 (2) Where the transfer is to a husband or wife the transfer
 25 of property of the clear market value of \$65,000 shall be exempt
 26 from all taxation under this act. If property is not transferred
 27 to a minor child or children, the widow shall be entitled to an

1 additional exemption of \$5,000.00 for each child to whom property
2 is not transferred.

3 (3) If the clear market value of the property transferred to
4 each of the persons included in the classes specified in subsec-
5 tion (1) exceeds the exemptions specified, the exemptions shall
6 first be deducted from the value of the property. When the clear
7 market value of the property does not exceed \$50,000.00 before
8 deducting the exemptions, the transfer of the property in excess
9 of the exemptions and up to \$50,000.00 shall be taxed at the rate
10 of ~~2%~~ 2.5% of the clear market value of the property. When the
11 clear market value of the property exceeds \$50,000.00 the excess
12 over exemptions of the first \$50,000.00 shall be taxed as pro-
13 vided in this subsection and the transfer of that portion of the
14 property in excess of \$50,000.00 and up to \$250,000.00 shall be
15 taxed at the rate of ~~4%~~ 4.5% of the clear market value of the
16 property. The transfer of that portion of the property in excess
17 of \$250,000.00 and up to \$500,000.00 shall be taxed at the rate
18 of ~~7%~~ 8% of the clear market value of the property. The trans-
19 fer of that portion of the property in excess of \$500,000.00 and
20 up to \$750,000.00 shall be taxed at the rate of ~~8%~~ 9% of the
21 clear market value of the property. The transfer of that portion
22 of the property in excess of \$750,000.00 shall be taxed at the
23 rate of ~~10%~~ 11% of the clear market value of the property.

24 (4) The exemptions of section 1 and subsections (1), (2),
25 and section 2d shall apply and be granted to each beneficiary's
26 interest in the property, and not to the entire estate of a
27 decedent. A deduction or exemption from the tax shall not be

1 made for an allowance granted by the order of a court for the
2 maintenance and support of the widow or family of a decedent
3 pending the administration of the estate when there is income
4 from the estate accruing after death, which is available to pay
5 the allowance, or for a longer period than 1 year, or for a
6 greater amount than is actually used and expended for the mainte-
7 nance and support of the widow or family for 1 year.

8 (5) Except as provided in this act, in cases other than
9 those specified in subsection (3), the tax shall be at the rate
10 of 12% upon the clear market value of the property transferred
11 not exceeding \$50,000.00, 14% upon all in excess of \$50,000.00
12 and up to \$500,000.00, and 17% upon all in excess of
13 \$500,000.00.

14 SEC. 2B. (1) THE TAX ON THE TRANSFER OF ANY PROPERTY, REAL
15 OR PERSONAL, OF A FAMILY-OWNED BUSINESS TO A QUALIFIED HEIR OR
16 HEIRS WHO WILL CONTINUE THE BUSINESS AS A FAMILY-OWNED BUSINESS
17 MAY BE PAID IN 10 EQUAL ANNUAL INSTALLMENTS WITH THE FIRST PAY-
18 MENT DUE WITHIN 1 YEAR OF THE DEATH OF THE DECEDENT. INTEREST
19 SHALL BE CHARGED ON THE UNPAID BALANCE AT THE RATE PROVIDED FOR
20 IN SECTION 4(7). IF THE BUSINESS IS SOLD TO A PERSON OTHER THAN
21 A QUALIFIED HEIR OR HEIRS BEFORE THE 10 ANNUAL PAYMENTS HAVE BEEN
22 MADE BY THE QUALIFIED HEIR OR HEIRS, THE ENTIRE UNPAID BALANCE IS
23 DUE WITHIN 60 DAYS OF THE TRANSFER.

24 (2) THIS SECTION DOES NOT APPLY IF THE TRANSFER OF THE PROP-
25 ERTY IS SUBJECT TO THE TAX IMPOSED UNDER SECTION 2A.

26 Sec. 2d. ~~(1)~~ The transfer of qualified farm real AND
27 PERSONAL property to ~~the~~ A qualified heir ~~shall be~~ IS exempt

~~1 in the amount of 50% of the clear market value from all~~
~~2 taxation under SECTION 2. this act if the qualified heir exe-~~
~~3 cutes a farmland development rights agreement pursuant to Act~~
~~4 No. 116 of the Public Acts of 1974, as amended, being sections~~
~~5 554.701 to 554.719 of the Michigan Compiled Laws. The qualified~~
~~6 heir who is party to an executed farmland development rights~~
~~7 agreement may elect to defer the balance of the taxes due under~~
~~8 this act on the transfer of qualified farm real property for a~~
~~9 period of 10 years without penalty or interest. The executor,~~
~~10 administrator, or trustee of the estate and the qualified heir~~
~~11 may make the election provided by this subsection by filing an~~
~~12 affidavit with the judge of probate, which shall be made in the~~
~~13 time and manner and with the content prescribed by the judge of~~
~~14 probate. The judge of probate shall consider all of the~~
~~15 following:~~

~~16 (a) Whether both the executor, administrator, or trustee of~~
~~17 the estate and the qualified heir have made the election provided~~
~~18 by this subsection by filing an affidavit within the prescribed~~
~~19 time and manner.~~

~~20 (b) Whether the proposed transfer is to a qualified heir as~~
~~21 defined in section 21.~~

~~22 (c) Whether the proposed transfer is of qualified farm real~~
~~23 property as defined in section 21.~~

~~24 (2) The judge of probate may request assistance from either~~
~~25 the soil conservation district agency or the state land use~~
~~26 agency in finding if the real property in question is farmland.~~
~~27 If the judge of probate finds all of the factors described in~~

~~1 subsection (1), the judge of probate shall issue an order which
2 shall suspend for a period of 6 months the payment of any tax
3 imposed by this act, authorize the transfer of the qualified farm
4 real property to the qualified heir, and require the qualified
5 heir of the qualified farm real property to apply for a farmland
6 development rights agreement pursuant to Act No. 116 of the
7 Public Acts of 1974, as amended, within 30 days after the date of
8 the order. The judge of probate shall notify the state land use
9 agency in the department of natural resources of this order. If
10 the qualified heir fails to apply for a farmland development
11 rights agreement, the tax imposed by this act shall be immedi-
12 ately due and there shall be added the maximum penalty and inter-
13 est allowed in section 4 and any costs the judge of probate con-
14 sidered appropriate for this failure. The procedures, provisions
15 and terms of a farmland development rights agreement shall be
16 consistent with Act No. 116 of the Public Acts of 1974, as
17 amended. If the state land use agency either executes on behalf
18 of the state a farmland development rights agreement or rejects
19 an application for that agreement, it shall notify the judge of
20 probate. Beginning 10 years after the effective date of the
21 farmland development rights agreement, the 50% exemption for
22 qualified farm real property provided by subsection (1) shall be
23 a permanent exemption if the requirements of the farmland devel-
24 opment rights agreement are satisfied under Act No. 116 of the
25 Public Acts of 1974, as amended. If the owner of record of real
26 property subject to a farmland development rights agreement
27 either sells the real property or ceases to use the real property~~

~~1 for an agricultural use, the owner of record shall immediately
2 notify the state land use agency and the commissioner of revenue
3 of the sale or the nonagricultural use in form and content as
4 prescribed by each.~~

~~5 (3) If real property subject to a farmland development
6 rights agreement is sold by the owner of record within 5 years
7 after the effective date of the agreement, the following amount
8 shall be immediately due to the state by the seller:~~

~~9 (a) Taxes shall not be due if the successor in title is
10 another qualified heir of the decedent and the successor in title
11 complies with the provisions contained in the farmland develop-
12 ment rights agreement. The exempt and deferred tax liability
13 shall be transferred to the successor in title.~~

~~14 (b) The total amount of otherwise exempt and deferred taxes
15 shall be due without penalty or interest if the successor in
16 title is not a qualified heir of the decedent and the successor
17 in title complies with the provisions contained in the farmland
18 development rights agreement.~~

~~19 (c) The total amount of otherwise exempt and deferred taxes
20 shall be due with interest at the rate of 3/4 of 1% per month
21 compounded from the time the exemption was received until the
22 taxes are paid if the request by the owner of record for relin-
23 quishment of the farmland development rights agreement is
24 approved pursuant to section 12(2)(b) of Act No. 116 of the
25 Public Acts of 1974, being section 554.712 of the Michigan
26 Compiled Laws.~~

~~1 (d) The total amount of otherwise exempt and deferred taxes~~
~~2 shall be due without penalty or interest, in a case where the~~
~~3 farmland development rights agreement is relinquished by the~~
~~4 state pursuant to either section 11(2) or 12(2)(a) of Act No. 116~~
~~5 of the Public Acts of 1974, as amended, being section 554.711 or~~
~~6 554.712 of the Michigan Compiled Laws.~~

~~7 (4) If real property subject to a farmland development~~
~~8 rights agreement is sold by the owner of record not less than 6~~
~~9 but not more than 10 years after the effective date of the agree-~~
~~10 ment, a proration of the remaining months multiplied by the fol-~~
~~11 lowing amount shall be immediately due to the state by the~~
~~12 seller:~~

~~13 (a) Taxes shall not be due if the successor in title is~~
~~14 another qualified heir of the decedent and the successor in title~~
~~15 complies with the provisions contained in the farmland develop-~~
~~16 ment rights agreement. The exempt and deferred tax liability~~
~~17 shall be transferred to the successor in title.~~

~~18 (b) The total amount of otherwise exempt and deferred taxes~~
~~19 shall be due without penalty or interest if the successor in~~
~~20 title is not a qualified heir of the decedent and the successor~~
~~21 in title complies with the provisions contained in the farmland~~
~~22 development rights agreement.~~

~~23 (c) The total amount of otherwise exempt and deferred taxes~~
~~24 shall be due with interest at the rate of 3/4 of 1% per month~~
~~25 compounded added to this amount from the time this exemption was~~
~~26 received until the taxes are paid if the request by the owner of~~
~~27 record for relinquishment of the farmland development rights~~

1 ~~agreement is approved pursuant to section 12(2)(b) of Act No. 116~~
2 ~~of the Public Acts of 1974.~~

3 ~~(d) The total amount of otherwise exempt and deferred taxes~~
4 ~~shall be due without penalty or interest if the farmland develop-~~
5 ~~ment rights agreement is relinquished by the state pursuant to~~
6 ~~either section 11(2) or 12(2)(a) of Act No. 116 of the Public~~
7 ~~Acts of 1974, as amended.~~

8 ~~(5) If the owner of record ceases to use real property~~
9 ~~subject to a farmland development rights agreement for an agri-~~
10 ~~cultural use, the total amount of otherwise and deferred taxes~~
11 ~~shall be due with interest at the rate of 3/4 of 1% per month~~
12 ~~compounded added to this amount from the time the exemption was~~
13 ~~received until the taxes are paid.~~

14 Sec. 3. (1) The tax and the interest on the tax provided
15 for in this act shall become a lien upon the property transferred
16 until paid, unless payment of the tax has been deferred as per-
17 mitted by this section or section ~~2d~~ 2B. If a deferral of pay-
18 ment is granted under this section or section ~~2d~~ 2B, the lien
19 provided by this section shall attach at the end of the deferral
20 period granted by this section or section ~~2d~~ 2B. The person to
21 whom the property is transferred and the administrator, executor,
22 and trustee of every estate transferred, shall be personally
23 liable for the tax until its payments; except that the executor
24 or administrator shall not be personally liable for the tax upon
25 a reversion or remainder consisting of real estate where the
26 election provided for in section 7 or the deferral in this
27 section or section ~~2d~~ 2B is made. The tax shall be paid to the

1 treasurer of the county in which the probate court has
2 jurisdiction as provided in this act. The treasurer shall make
3 out, upon forms prescribed by the revenue commissioner, receipts
4 in duplicate, and immediately send the receipts to the revenue
5 commissioner, and accompany them with the amount received in
6 funds by law receivable at the state treasury. The revenue com-
7 missioner shall then charge the treasurer receiving the tax with
8 the amount thereof and credit the treasurer with the payment of
9 the tax to state treasurer, and if the determination of the tax
10 and receipt are believed to be in accordance with law, seal the
11 receipts with the seal of the office and countersign the same and
12 return 1 of them to the county treasurer who shall file and pre-
13 serve it in his or her office and immediately send the other
14 receipt to the judge of probate who shall file and preserve it in
15 that office, whereupon it shall be a voucher in settlement of the
16 accounts of the executor, administrator, or trustee of the estate
17 upon which the tax is paid. At the same time the revenue commis-
18 sioner shall send to the county treasurer the state treasurer's
19 receipt, countersigned as required by law, showing payment of
20 tax. The sealing and countersigning of the receipts shall not
21 prejudice the right of the state to a review of the determination
22 fixing the tax. The receipts issued under this section shall
23 show whether the amount paid is a payment of the tax upon any
24 beneficial interest or upon the entire transfer. But an execu-
25 tor, administrator, or trustee of an estate, in settlement of
26 which a tax is due under this act, shall not be discharged and
27 the estate or trust closed by a decree of the court, unless there

1 is produced a receipt signed by the county treasurer and sealed
2 and countersigned by the revenue commissioner, or a copy thereof,
3 certified by the county treasurer, or unless payment of the tax
4 has been deferred as prescribed by this section, section 7, or
5 section ~~2d~~ 2B. When the tax is paid to the county treasurer,
6 the county treasurer shall, in addition to the duplicate receipts
7 required to be issued upon the form prescribed by the revenue
8 commissioner, give the executor, administrator, trustee, or other
9 person paying the tax, a simple receipt for the amount received.
10 All taxes imposed by this act shall accrue and be due and payable
11 at the time of transfer, which is the date of death, except that
12 taxes upon the transfer of any estate, property, or interest
13 limited, conditioned, dependent, or determinable upon the happen-
14 ing of a contingency or future event, by reason of which the
15 clear market value cannot be ascertained at the time of the
16 transfer, shall accrue and become due and payable when the per-
17 sons or corporations beneficially entitled shall come into actual
18 possession or enjoyment.

19 (2) The tax and the interest on the tax provided for in this
20 act may be deferred for reasonable cause shown by the executor,
21 administrator, or trustee of the estate of a decedent who was a
22 professional artist at the date of his or her death for not more
23 than 10 years without penalty or interest. The executor, admin-
24 istrator, or trustee of the estate may make the deferral provided
25 by this subsection by filing an affidavit with the judge of pro-
26 bate, which shall be made in the time and manner and with the
27 content prescribed by the judge of probate. The judge of probate

1 shall determine whether there is reasonable cause shown to grant
2 a deferral, the length of time for the deferral, and the manner
3 of payment of the tax.

4 (3) A proceeding to enforce a lien against any property
5 under this act shall be instituted by information, in the name of
6 the people of this state, addressed to the circuit court for the
7 county in which the property is situated. It shall be signed by
8 the attorney general and need not be otherwise verified. A
9 person owning the property or an interest in the property as
10 shown by the record in the office of the register of deeds, or by
11 the records of the probate court, at the time of the commencement
12 of the proceedings, shall be made a party to the action, and all
13 other persons having a right or interest in the property, may
14 make themselves parties to the proceeding, on motion to the
15 court, and notice to complainant, and may file their intervening
16 or cross-claims, or answers claiming the benefit of cross-claims,
17 and notices of lis pendens therein. Intervening or cross-claims
18 shall be made on oath.

19 (4) The information shall show the name of the deceased, the
20 date of death, the place of residence at the time of death, the
21 county in which the estate was probated, the description of the
22 property transferred, whether by will or under the intestate
23 laws, and against which the lien exists, the name of the person
24 or persons to whom it was transferred, the amount of taxes deter-
25 mined by the probate court upon the transfer, the date of the
26 determination and whether the property is owned by the person or
27 persons to whom it was transferred by will or under the intestate

1 laws or by a subsequent purchaser, naming that purchaser. The
2 information shall also show that the taxes determined upon the
3 transfer of the property have not been paid and the amount of
4 interest due upon the date of the filing of the information. In
5 those cases in which the property upon which the lien exists is
6 owned by the person or persons to whom it was transferred by will
7 or under the intestate laws, the petition for relief shall be
8 that the court determine the amount due; that the defendant pay
9 to the county treasurer of the county, in which the estate was
10 probated, for and in behalf of this state, whatever sum shall
11 appear to be due, together with the costs of the proceeding, and
12 that in default of that payment the property upon which the lien
13 exists, may be sold in the manner provided in this act, to sat-
14 isfy the taxes, interest, and cost. In those cases in which the
15 property upon which the lien exists is owned by a subsequent pur-
16 chaser, the petition for relief shall be that the court determine
17 the amount due and that the property upon which the lien exists
18 may be sold in the manner provided in this act to satisfy the
19 taxes, interest, and costs of the proceeding. The information
20 may contain other and further allegations and petitions consid-
21 ered material and permitted by the rules and practice of the
22 court.

23 (5) A certified copy of the order of determination of the
24 inheritance tax, for which the lien exists, certified by either
25 the judge or register of probate of the court that determined the
26 tax or by the revenue commissioner, may be attached to the
27 information. When attached, the copy shall be considered a part

1 of the information and shall be prima facie evidence of the
2 determination of the inheritance tax and the accruing of the lien
3 against the property. A certificate of the revenue commissioner
4 stating that the inheritance tax, or any part of the tax deter-
5 mined upon the transfer of the property upon which the lien
6 exists, has not been paid, may be attached to the information.
7 When attached, the certificate shall be considered a part of the
8 information and shall be prima facie evidence of the nonpayment
9 of the amount of the tax and interest shown to be unpaid by the
10 certificate.

11 (6) If an infant, insane, or otherwise mentally incompetent
12 person has an interest in the property upon which the lien
13 exists, service of process shall be made upon that person in the
14 same manner and with the same effect as upon persons not under a
15 disability, whether the infant, insane, or otherwise mentally
16 incompetent person is within or without the jurisdiction.

17 (7) After the issuing and service of process against the
18 infant, insane, or otherwise incompetent person, a guardian ad
19 litem may be appointed for the infant, insane, or otherwise
20 incompetent person by the court upon motion of the attorney gen-
21 eral, or the guardian ad litem may be appointed by the court upon
22 the request of the infant, and in the case of an insane or other-
23 wise incompetent person, at the request of the person's general
24 guardian.

25 (8) If upon the hearing of the cause it appears that the
26 inheritance taxes or interest, or both, upon the transfer of the
27 property upon which the lien exists have not been paid, the court

1 shall decree the amount of taxes and interest on the taxes found
2 to be due, together with costs to be determined by the court, to
3 be paid by the person or persons owning the property, or any
4 interest in the property, within 3 months after the entry of the
5 decree and that in default of payment that the property upon
6 which the lien exists, be sold to satisfy the taxes, interest,
7 and costs. If it appears that the person or persons to whom was
8 transferred the property by will or under the intestate laws have
9 parted with their interest before the institution of the proceed-
10 ings provided for in this section, and that the property is owned
11 by a subsequent purchaser, the court shall decree that the prop-
12 erty be sold to satisfy the taxes, interest, and costs, unless
13 the owner satisfies the taxes, interest, and costs within 3
14 months after the entry of the decree. However, in those cases in
15 which it appears that 2 or more pieces or parcels of land were
16 transferred by will or under the intestate laws to 1 person, and
17 that that person, before the institution of the proceedings pro-
18 vided for in this section, has parted with any or all of the
19 pieces or parcels of land, and that the court can ascertain from
20 the order of determination the amount of inheritance tax deter-
21 mined upon the transfer of each piece or parcel, and that the
22 lien against all of the pieces or parcels is being foreclosed in
23 1 proceeding, the court may decree the sale of that piece or
24 parcel to satisfy the amount of tax determined upon the transfer
25 of that piece or parcel, together with the interest thereon and
26 pro rata costs of the proceeding. A piece or parcel of property
27 shall not be sold to satisfy taxes, interest, and costs within 3

1 months after the entry of the decree. If the person or persons
2 owning the property or an interest in the property, or the
3 person's heirs, executors, administrators, or a person lawfully
4 claiming from or under him OR HER or them, within 6 months after
5 the time of the sale redeems the entire premises sold, by paying
6 to the register of deeds in whose office the deed is deposited,
7 as provided by subsection (12), for the benefit of the purchaser,
8 or the purchaser's executors, administrators, or assigns the sum
9 which was bid at the time of sale, with interest, at the rate of
10 6%, together with the sum of \$1.00 as a fee for the care and cus-
11 tody of the redemption money, and the fee paid by the purchaser
12 for recording his or her deed, then the deed shall be void and of
13 no effect, but if a distinct lot or parcel separately sold is
14 redeemed leaving a portion of the premises unredeemed, then the
15 deed shall be inoperative merely to the parcel or parcels
16 redeemed and to those portions not redeemed shall remain valid
17 and of full effect.

18 (9) If it appears to the court after the expiration of 3
19 months from the date of entry of the decree from a certificate of
20 the county treasurer to whom the taxes, interest, and costs were
21 to be paid, attached to a petition of the attorney general for an
22 order of sale of the property, that the same have not been paid,
23 the court shall enter an order directing the circuit court com-
24 missioner, or some other person duly authorized by the order of
25 the court, to sell the property. The sale shall be at public
26 vendue between the hours of 9 a.m. and 6 p.m. at the courthouse
27 or at another place as the court directs, within 60 days after

1 the date of the order and on the date specified on the order.
2 The court may, if necessary, by further order adjourn the sale
3 from time to time. The circuit court commissioner, or other
4 person authorized to make the sale, may, if bids are not received
5 equal to the amount of taxes, interest, and costs, adjourn the
6 sale from time to time, but the sale shall not be adjourned for
7 more than 60 days at any 1 time.

8 (10) Upon receipt of a certified copy of the order of sale
9 the circuit court commissioner, or other person duly authorized
10 by the order of the court to conduct the sale, shall publish the
11 sale in some newspaper printed in the county or another paper as
12 the court may direct, once in each week, for 3 weeks in
13 succession. If the sale is adjourned by order of the court, or
14 by the circuit court commissioner, or other person duly autho-
15 rized by the order of the court, to conduct the sale the same
16 publication shall be had of the order or notice adjourning the
17 sale as is provided in this section for publishing the order of
18 sale. Proof of publication shall be filed with the court before
19 the sale.

20 (11) The circuit court commissioner, or other person autho-
21 rized to make the sale shall make and file a report of the sale.
22 The report shall be entitled in the court and cause, and shall be
23 certified and filed with the court.

24 (12) Deeds shall thereupon be executed by the circuit court
25 commissioner or other person making the sale, specifying the
26 names of the parties in the action, the date of the determination
27 of the inheritance tax, the name of the deceased, the county in

1 which the estate was probated, with a description of the premises
2 and the amount for which each parcel of land described was sold.
3 The commissioner, or other person making the sale, shall indorse
4 upon each deed when the deed shall become operative, if the
5 premises are not redeemed according to law. The deed or deeds,
6 as soon as practicable and within 20 days after the sale, shall
7 be deposited with the register of deeds of the county in which
8 the land described is situated, and the register shall indorse on
9 the deed the time the deed was received, shall record the deed at
10 length in a book to be provided for in his or her office for that
11 purpose, and shall index the deed in the regular index of deeds.
12 The fees for recording the deed shall be paid by the purchaser
13 and be included among the other costs and expenses. If the
14 premises or a parcel of the premises shall be redeemed, the reg-
15 ister of deeds shall write on the face of the record the word
16 "Redeemed", stating at what date the entry is made and signing
17 the entry with his or her official signature. Unless the
18 premises described in the deed, or a parcel of the premises, is
19 redeemed within the time limited for redemption, as provided in
20 this section, the deed shall thereupon as to all parcels not
21 redeemed, become operative and shall vest in the grantee named in
22 the deed, the grantee's heirs or assigns all the right, title and
23 interest therein which the person or persons received either from
24 the deceased by reason of the transfer to them by will or under
25 the intestate laws, or as subsequent purchasers.

26 (13) The proceeds of each sale provided for in this section
27 shall be paid to the treasurer of the county where the estate was

1 probated, to be applied to the discharge of the tax, interest,
2 and costs, and if there is any surplus, it shall be brought into
3 court for the use of the defendant, or the person entitled there-
4 to, subject to the order of the court. The redemption money paid
5 to the register of deeds shall be paid to the persons entitled to
6 the money as soon as practical, and in those cases in which the
7 state was the purchaser, the money shall be paid to the treasurer
8 of the county where the estate was probated, and if there be any
9 surplus after the tax, interest, and costs are satisfied, that
10 surplus shall be brought into court for the use of the defendant
11 or the person entitled to the surplus, subject to the order of
12 the court.

13 (14) Upon the filing of the information, a fee of \$2.00
14 shall be paid to the court, which shall be in full of all regis-
15 ter fees and charges in the proceedings. The circuit court com-
16 missioner, or other person authorized by the court to make the
17 sale, shall be entitled to the following fees and no others: For
18 attending and adjourning a sale, \$1.00; for attending and making
19 a sale, \$1.50; mileage, 1 way, 10 cents per mile; executing deed
20 or deeds on real estate sales, 25 cents for each deed necessarily
21 executed; making and filing a report of sale, \$1.00. The cost of
22 publishing any legal notices required to be published shall be at
23 the rate of 70 cents per folio for the first insertion, and 35
24 cents per folio for each subsequent insertion. The fees which
25 are provided for in this act shall be added by the circuit court
26 commissioner, or other person duly authorized to make the sale,

1 to the tax, interest, and costs awarded by the court as charges
2 against the land.

3 Sec. 4. (1) The tax imposed by this act accrues on the date
4 of death and is due and payable on or before the expiration of 9
5 months from the accruing thereof. In the case of failure or
6 refusal to pay the tax required by this act within 9 months from
7 the accruing thereof, there shall be added a penalty of \$5.00 or
8 5% of the tax, whichever is greater, if the failure is for not
9 more than 1 month or a fraction of 1 month, with an additional 5%
10 for each additional month or fraction thereof during which the
11 failure continues, or the tax and penalty is not paid, to a maxi-
12 mum of 25%. In addition to the penalty, there shall be added
13 interest at the rate of $\frac{3}{4}$ of 1% per month on the amount of the
14 tax from the time the tax was accrued until the date of payment.

15 (2) If by reason of claims made upon the estate, necessary
16 litigation or other unavoidable cause of delay, the tax cannot be
17 completely determined and paid, a partial or interim payment
18 together with a request for extension shall be made before the
19 due date, in which case interest at the rate of $\frac{3}{4}$ of 1% per
20 month shall be added to the amount of tax unpaid for the period
21 of extension until the tax is determined, or could be determined
22 until the date of the payment thereof.

23 (3) If the balance of the tax due remains unpaid for more
24 than 30 days there shall be added a penalty of \$5.00 or 5% of the
25 tax not paid, whichever is greater, if the failure is for not
26 more than 1 month or a fraction of 1 month, with an additional 5%
27 for each additional month or fraction thereof during which the

1 failure continues, or the tax and penalty is not paid, to a
2 maximum of 25%. In addition to the penalty, there shall be added
3 interest at the rate of 3/4 of 1% per month on the amount of the
4 tax from the time the tax was determined or could have been
5 determined until the date of payment.

6 (4) Where payment is deferred as provided in section 7,
7 interest shall be charged at the rate of 3/4 of 1% per month from
8 the accrual of the tax until the date of the payment thereof.

9 (5) For failure or refusal to file an information return or
10 information report required by this act, within the time speci-
11 fied by this act, there shall be added a penalty of \$5.00 per day
12 for each day for each separate failure or refusal. The total
13 penalty for each separate failure or refusal shall not exceed
14 \$200.00.

15 (6) When a return, report, or remittance is filed after the
16 time specified by this act and it is shown to the satisfaction of
17 the department that the failure to file was due to reasonable
18 cause and not to ~~wilful~~ WILLFUL neglect, the penalty may be
19 waived.

20 (7) IF THE TAX IS PAID IN INSTALLMENTS UNDER SECTION 2B,
21 INTEREST ON THE UNPAID BALANCE SHALL BE CHARGED AT THE RATE OF 1
22 PERCENTAGE POINT ABOVE THE ADJUSTED PRIME RATE AS COMPUTED
23 MONTHLY.

24 Sec. 21. As used in this act:

25 (a) "Estate" or "property" means the property or interest in
26 property of the testator, intestate, grantor, bargainor, or
27 vendor, passing or transferred to those not specifically exempted

1 from this act, and not as the property or interest in property
2 passing or transferred to the individual legatees, devisees,
3 heirs, next of kin, grantees, donees, or vendees, and includes
4 all property or interest in property whether situated within or
5 without this state and including all property represented or evi-
6 denced by note, certificate, stock, land, contract, mortgage or
7 other kind or character of evidence thereof, and regardless of
8 whether that evidence of property is owned, kept or possessed
9 within or without this state.

10 (b) "Transfer" includes the passing of property or an inter-
11 est in property in possession or enjoyment, present or future, by
12 inheritance, descent, devise, bequest, grant, deed, bargain,
13 sale, or gift in the manner prescribed in this act.

14 (c) "County treasurer" or "prosecuting attorney" means the
15 county treasurer or prosecuting attorney of the county having
16 jurisdiction pursuant to section 10.

17 (d) "Qualified far: real AND PERSONAL property" means real
18 AND PERSONAL property located in this state which on the date of
19 the ~~decendent's~~ DECEDENT'S death was ~~being~~ CLASSIFIED AS
20 AGRICULTURAL UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT,
21 ACT NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.34C OF
22 THE MICHIGAN COMPILED LAWS, INCLUDING AGRICULTURAL PERSONAL PROP-
23 ERTY OTHERWISE EXEMPT UNDER THAT ACT, devoted primarily to an
24 agricultural use — and which meets all of the following
25 conditions:

1 ~~(i) The real property is eligible as farmland pursuant to~~
2 ~~Act No. 116 of the Public Acts of 1974, as amended, being~~
3 ~~sections 554.701 to 554.719 of the Michigan Compiled Laws.~~

4 (i) ~~(ii)~~ Fifty percent or more of the adjusted value of
5 the estate consists of the adjusted value of real or personal
6 property, which on the date of the decedent's death ~~—~~ was being
7 devoted primarily to an agricultural use ~~—~~ and which was
8 acquired from or transferred from the decedent to a qualified
9 heir.

10 (ii) ~~(iii)~~ Twenty-five percent or more of the adjusted
11 value of the estate consists of the adjusted value of real prop-
12 erty which was acquired from or transferred from the decedent to
13 a qualified heir and which meets the requirements of subparagraph
14 ~~(iv)~~ (iii).

15 (iii) ~~(iv)~~ During the 8-year period ending on the date of
16 the decedent's death there have been periods aggregating 5 years
17 or more during which the real property was owned by the decedent
18 or a qualified heir in the operation of the farm and there was
19 material participation by the decedent or a qualified heir in the
20 operation of the farm.

21 ~~(v) The real property is designated in the agreement~~
22 ~~referred to in section 2d.~~

23 (e) "Adjusted value" as used in subdivision (d) means:

24 (i) ~~In the case of~~ FOR the estate, the clear market value
25 of the estate for purposes of this act, reduced by any proper
26 deductions consisting of unpaid mortgages, debts, or liens on the
27 property.

1 (ii) ~~In the case of any~~ FOR real or personal property, the
2 clear market value of that property for purposes of this act,
3 reduced by any proper deductions consisting of unpaid mortgages,
4 debts, or liens on the property.

5 (f) "Agricultural use" means that term as used in THE FARM-
6 LAND AND OPEN SPACE PRESERVATION ACT, Act No. 116 of the Public
7 Acts of 1974, ~~as amended.~~ BEING SECTIONS 554.701 TO 554.719 OF
8 THE MICHIGAN COMPILED LAWS.

9 (g) "Qualified heir" means an individual entitled to any
10 beneficial interest in property who is the grandfather, grand-
11 mother, father, mother, husband, wife, child, LEGALLY ADOPTED
12 CHILD, STEPCHILD, brother, sister, wife or widow of a son, OR
13 husband or widower of a daughter ~~—~~ of the decedent grantor,
14 donor, or vendor, or ~~to or~~ for the use of ~~any~~ A person to
15 whom the decedent grantor, donor, or vendor stood in the mutually
16 acknowledged relation of a parent, IF THE RELATIONSHIP BEGAN AT
17 OR BEFORE THE CHILD'S SEVENTEENTH BIRTHDAY AND CONTINUED UNTIL
18 THE DEATH OF THE DECEDENT GRANTOR, DONOR, OR VENDOR, or to or for
19 the use of ~~any~~ A lineal descendant of the decedent grantor,
20 donor, or vendor, or farm business partner, or to or for the use
21 of any person to whom the decedent grantor, donor, or vendor
22 stood in the mutually acknowledged relation of a farm business
23 partner. ~~For purposes of this subdivision, a legally adopted~~
24 ~~child of the decedent grantor, donor or vendor shall be treated~~
25 ~~as a child by blood.~~

26 (h) "Soil conservation district agency" means the agency of
27 the district where the real property is located created pursuant

1 to THE SOIL CONSERVATION DISTRICTS LAW, Act No. 297 of the Public
2 Acts of 1937, as amended, being sections 282.1 to 282.16 of the
3 Michigan Compiled Laws.

4 ~~(i) "State land use agency" means the land use agency~~
5 ~~within the department of natural resources.~~

6 (I) ~~(j)~~ "Material participation" shall be determined in
7 the same manner as used in section 1402(a) (1) of the internal
8 revenue code.

9 (J) "FAMILY-OWNED" MEANS MATERIAL PARTICIPATION BY THE DECE-
10 DENT OR A QUALIFIED HEIR IN THE OPERATION OF THE BUSINESS AND
11 EITHER OF THE FOLLOWING:

12 (i) THE BUSINESS IS 100% OWNED BY THE DECEDENT AND QUALIFIED
13 HEIRS OR FOR A CORPORATION, 100% OF THE STOCK IS OWNED BY THE
14 DECEDENT AND QUALIFIED HEIRS.

15 (ii) THE BUSINESS IS 50% OR MORE OWNED BY THE DECEDENT OR
16 FOR A CORPORATION, 50% OR MORE OF THE STOCK IS OWNED BY THE
17 DECEDENT.

18 (K) "ADJUSTED PRIME RATE" MEANS ADJUSTED PRIME RATE CHARGED
19 BY BANKS AS DEFINED IN SECTION 23 OF ACT NO. 122 OF THE PUBLIC
20 ACTS OF 1941, BEING SECTION 205.23 OF THE MICHIGAN COMPILED LAWS.